

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Adijat Edwards,

Petitioner,

v.

Civil No. 11-320 (JNE/JJK)
ORDER

United States Immigration and Customs
Enforcement Division of the Department of
Homeland Security; United States
Department of Homeland Security; Janet
Napolitano, Secretary of Department of
Homeland Security; and Scott Banieceke, St.
Paul Field Office Director for Detention and
Removal Operation;

Respondents.

Petitioner was detained and deported from the United States following termination of her conditional lawful permanent resident by the Department of Homeland Security. Due to unusual timing, Petitioner did not have an opportunity to challenge this administrative immigration decision. She filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241, but was deported prior to adjudication of her claim. In an October 26, 2011 Order, this Court denied Petitioner's § 2241 claim due to lack of jurisdiction. Petitioner filed an appeal to the United States Court of Appeals for the Eighth Circuit and now requests to proceed *in forma pauperis*.

An appellant may be granted leave to proceed *in forma pauperis* when he or she is unable to pay the required appellate filing fee and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(1) and (3) (2006). Good faith in this context is judged by an objective standard rather than the subjective beliefs of the appellant. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). To determine whether an appeal is taken in good faith, the Court must decide whether the claims to be decided on appeal are factually or legally frivolous. *Id.* An appeal is frivolous, and

therefore cannot be taken in good faith, “where it lacks an arguable basis either in law or in fact.”
Neitzke v. Williams, 490 U.S. 319, 325 (1989).

In this case, the information submitted by Petitioner indicates that she is financially eligible for *in forma pauperis* status on appeal. Although the Court remains satisfied that Petitioner’s claims were properly addressed, the Court declines to certify that Petitioner’s appeal is not taken in good faith. Accordingly, the Court grants Petitioner’s application to proceed *in forma pauperis* on appeal.

Therefore, IT IS ORDERED THAT:

1. Petitioner’s application to proceed *in forma pauperis* under 28 U.S.C. § 1915 [Docket No. 34] is GRANTED.

Dated: January 25, 2012

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge